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Claim 2 is canceled from the application.

REMARKS

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1. Applicant thanks the Examiner for his remarks and observations.

2. It should be appreciated that Applicant has elected to amend Claim 1 and cancel Claim 2 solely for the purpose of expediting the patent application process in a manner consistent with the PTO's Patent Business Goals, 65 Fed. Reg. 54603 (9/8/00). In making such amendments, Applicant has not and does not in any way narrow the scope of protection to which Applicant considers the invention herein to be entitled. Rather, Applicant reserves Applicant's right to pursue such protection at a later point in time and merely seeks to pursue protection for the subject matter presented in this submission.

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3. Claims 1 – 51 stand provisionally rejected based on the judicially-created doctrine of obviousness-type double-patenting as being unpatentable over claims 1 – 12, and 14-40 of U.S. Patent Application Ser. No. 09/328,737. Applicant provides herewith a terminal disclaimer in the present application. Accordingly the obviousness-type double-patenting rejection is overcome.

4. Claims 1-23, 25-28 and 28-40 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,984,508 ("Hurley"). Applicant respectfully disagrees. For a reference to anticipate a Claim, the reference must describe each and every

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lement of the Claim; the identical invention must be shown in as complete detail as contained in the Claim; and the elements must be arranged as required in the Claim. MPEP § 2131.01.

5 A. Regarding Claim 1: Claim 1 of the application describes:

A method of evaluating software by a user for subsequent purchase comprising the steps of:

acquiring a software package, said software package comprising:

10 a first object, said first object a full-featured version of at least one software product, wherein said user is denied access to said first object;

a second object, said second object a further version of said software product having some, but less than all, of the features of said first object;

15 an access and control portion, said access and control portion affording selective access to any of said first and second objects; and

a notifier;

installing said software package on said buyer's computer system;

accessing said second object, access to said second object being unrestricted; and

20 evaluating said second object whereby said user assesses whether said software product meets said user's requirements.

The Examiner is unable to point to any portion of Hurley that teaches first and second objects, wherein the first object is a full-featured version of a software product, wherein

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said user is denied access to said first object; and wher in the second object is further version of the software product having some, but less than all, of the features of the first object. Hurley teaches "Software allows a vendor to grant full access to demonstration software that has been downloaded to a user's computer . . ." (Abstract, line 1 to line 2); and "An access code . . . includes information on which products and features to unlock . . ." (Col. 4, line 62 to line 65.) Thus, Hurley does teach that the user is given selective access to the software, depending on whether or not they have made a purchase, and what features or products they have purchased. However, Hurley is silent as to how the selective access is to be provided, merely saying that products or features are unlocked using the access code. There is no anticipation of first and second objects because Hurley doesn't teach first and second objects.

The Examiner finds that Hurley's cursory mention of unlocking software in line 1 of the Abstract describes an access and control portion, said access and control portion affording selective access to any of said first and second objects. Beyond this mention, there is no description of the "lock" that the Examiner maintains that Hurley describes. Thus, a passing reference to unlocking software does not describe an access and control portion affording selective access to any of said first and second objects; now would it place the invention in the possession of a person of ordinary skill or enable them to make or use the invention, both additional requirements for anticipation.

The only other element in Hurley that has anything to do with access and control is Hurley's access module 128. However, it is clear from the Abstract, line 1, Figure 1 and Col. 4, line 27 that the access module is completely independent of the software. Thus,

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there is no teaching in Hurley of "an access and control portion" included in a software package.

The Examiner finds that a "serial number generated on the user's system" and provided
5 to the vendor at time of purchase (Col. 4, line 51 to 54) describes a notifier. However,
the serial number, generated on the user's computer at some point after the demo
software is saved to the user's computer, constitutes information supplied to the vendor
from the user's computer. It has nothing to do with providing information to the user by
the vendor. In stark contrast, the Claimed invention includes a notifier in the software
10 package. One skilled in the art would readily recognize that a notifier provided by the
vendor to the user would convey information from the vendor to the user, and not vice
versa.

Accordingly, the rejection of Claim 1 under 35 U.S.C. § 102(e) is deemed to be
15 improper.

B. Regarding Claim 2: The Examiner is unable to point to anything in Hurley that
describes "wherein said access and control portion includes usage authorization
information." Accordingly, the rejection of Claim 2 under 35 U.S.C. § 102(e) is deemed
20 to be improper.

C. Regarding Claim 6: There is no teaching in Hurley of "wherein said first object
and said usage authorization information are encrypted, whereby said user is prevented
from accessing and using said first object and said usage authorization information until

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said prospective user executes a purchase request, thereby acquiring a license to at least some of the rights to said software product" because, as above, there is no teaching in Hurley of a first object and usage authorization information. Accordingly, the rejection of Claim 6 under 35 U.S.C. § 102(e) is deemed to be improper.

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D. Regarding Claim 7: There is no teaching in Hurley of: wherein said first object, said second object and said usage authorization information are macro-compressed and optionally, micro-compressed. Accordingly, the rejection of Claim 7 under 35 U.S.C. § 102(e) is deemed to be improper.

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E. Regarding Claim 16: There is no teaching in Hurley of: wherein said notifier comprises:

an executable code section; and
information required by said user for purchasing rights to said software product
15 and enabling entry of transaction information required for said purchase of said rights.
Accordingly, the rejection of Claim 16 under 35 U.S.C. § 102(e) is deemed to be improper.

F. Regarding Claim 17: There is no teaching in Hurley of: running a setup routine,
20 wherein said executable code section performs normal setup functions, including
displaying a user license; and

agreeing to terms of said user license. Accordingly, the rejection of Claim 17 under 35 U.S.C. § 102(e) is deemed to be improper.

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G. Regarding Claim 18: There is no teaching in Hurley of: selecting one or more use options from a listing of said use options available, said available options being those objects available free of charge or those previously purchased by said user, said listing being provided by said executable code section accessing said usage authorization information, and wherein one or more of said available objects are retrieved by said executable code section and loaded into memory; and executing said requested use. Accordingly, the rejection of Claim 18 under 35 U.S.C. § 102(e) is deemed to be improper.

H. Regarding Claim 21: There is no teaching in Hurley of: wherein selected information characteristic of said user's computer system is transmitted to said server after said purchase request is received by said server. Col. 4, line 51 to 52 of Hurley says that a serial number is provided to the vendor when placing an order to purchase. Accordingly, the rejection of Claim 21 under 35 U.S.C. § 102(e) is deemed to be improper.

I. Regarding Claims 48-49. The Examiner is unable to point to anything in Hurley that teaches: wherein said server inserts transaction information in said software product as a watermark. Accordingly, the rejection of Claims 48 and 49 under 35 U.S.C. § 102(e) is deemed to be improper.

J. Regarding Claim 50-51. The Examiner finds that Col. 4, line 64 to line 66 of Hurley, that the access code contains other information to ensure its validity, anticipates wherein said server inserts transaction information in said access control code as a

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watermark. While watermarking may possibly be a way of ensuring validity, it is well-established that a genus does not anticipate a species. Here, the Examiner finds that a broad recital of "information to ensure validity" anticipates watermarking of the access code. Moreover, Hurley's teaching does not describe that feature at the same level of detail as Claims 50 and 51. Additionally, Hurley's teaching would not put one having an ordinary level of skill in possession of the invention, nor would it enable the skilled practitioner to make or use the invention. Accordingly, there is no anticipation. The rejection of the rejection of Claims 48 and 49 under 35 U.S.C. § 102(e) is therefore deemed to be improper.

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4. Claims 24-44 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hurley in view of U.S. Patent No. 5,598,470 ("Cooper"). In view of the above, there being no anticipation of Claim 1 by Hurley, the current rejection is deemed improper.

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5. Claims 45-47 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hurley in view of U.S. Patent No. 6,006,328 ("Drake"). In view of the above, there being no anticipation of Claim 1 by Hurley, the current rejection is deemed improper. Even if the Hurley did anticipate the Claimed invention, the references, either separately or in combination would not teach all features of Claims 46 and 47. Regarding Claims 20 46 and 47, wherein said protection against dump attacks comprises any of erasing and modifying one or more of said objects' relocation information, directory pointers, or entry point after said objects have been written into memory and wherein said protection against dump attacks comprises modifying references to external routines in an import table of said objects whereby said notifier controls access to said routines, prevents

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dump attacks by deliberately making the very changes to the software operating environment that Drake is supposed to monitor. Drake serves only a monitoring function, and the only remedy Drake provides against a dump attack is to interrupt it by terminating the program being attacked, or to intercept program ID data and invalidate

5 It. Drake provides no capability of preventing dump attacks and/or class attacks. Hurley contains no teaching whatsoever related to protection against attack. Accordingly, the rejection of Claims 45 – 49 under 35 U.S.C. § 103(a) is deemed to be improper.

10 6. In spite of the above, in the interest of advancing prosecution of the application, Applicant amends Claim 1 to incorporate the subject matter of Claim 2, with Claim 2 cancelled from the Application.

CONCLUSION

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In view of the above, the application is deemed to be in allowable condition. Therefore, the Examiner is earnestly requested to withdraw all rejections and allow the application to pass to issue as a U. S. Patent. Should the Examiner have any questions related to the application, he is urged to contact applicant's attorney at the telephone number 20 given below.

Respectfully submitted,


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CLAIM AMENDMENTS

1. (Currently amended) A method of evaluating software by a user for subsequent purchase comprising the steps of:
 - acquiring a software package, said software package comprising:
 - a first object, said first object a full-featured version of at least one software product, wherein said user is denied access to said first object;
 - a second object, said second object a further version of said software product having some, but less than all, of the features of said first object;
 - an access and control portion, said access and control portion affording selective access to any of said first and second objects, wherein said access and control portion includes usage authorization information; and
 - a notifier;
- 15 installing said software package on said buyer's computer system;
- accessing said second object, access to said second object being unrestricted;
- and
- evaluating said second object whereby said user assesses whether said software product meets said user's requirements.

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2. (Original) ~~The method of Claim 1, wherein said access and control portion includes usage authorization information.~~

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3. (Original) The method of Claim 1, wherein said acquiring step comprises any of the steps of:

acquiring said software package as a software copy on a recordable medium;

5 acquiring said software package via data communication from any of an Internet site and a dial-up online service.

4. (Original) The method of Claim 3, said acquiring step further comprising the step of saving said software package to a mass storage device in said user's computer.

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5. (Original) The method of Claim 4, wherein said mass storage device comprises a hard disk drive.

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6. (Original) The method of Claim 2, wherein said first object and said usage authorization information are encrypted, whereby said user is prevented from accessing and using said first object and said usage authorization information until said prospective user executes a purchase request, thereby acquiring a license to at least some of the rights to said software product.

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7. (Original) The method of Claim 6, wherein said first object, said second object and said usage authorization information are macro-compressed and optionally, micro-compressed.

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8. (Original) The method of Claim 6, wherein said usage authorization information specifies any of:

permitted uses for said software product and individual components thereof and prices for said permitted uses;

5 authorized extent of use, where said extent of use comprises any of duration of use and number of uses; and prices for said authorized extent of use;

content of levels, where said software is purchased in succeeding levels, and prices for said levels;

an authorized user for said software product subsequent to purchase; and

10 subsequent to purchase, which of said individual components and levels have been purchased, and which are still available for purchase.

9. (Original) The method of Claim 8, wherein said software product comprises one or more executable objects.

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10. (Original) The method of Claim 9, wherein said executable objects comprise any of application software, utilities, and computer games.

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11. (Original) The method of Claim 8, wherein said software product comprises one or more data objects.

12. (Original) The method of Claim 11, wherein said data objects comprise any of digital images, video data objects and audio data objects.

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13. (Original) The method of Claim 9 wherein said levels comprise versions of said executable objects having more features enabled than a version in a preceding increment.

5 14. (Original) The method of Claim 9, wherein said increments comprise additional objects over those in a preceding increment.

15. (Original) The method of Claim 11, wherein said increments comprise additional objects over those in a preceding increment.

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16. (Original) The method of Claim 9, wherein said notifier comprises:
an executable code section; and
information required by said user for purchasing rights to said software product
and enabling entry of transaction information required for said purchase of said rights.

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17. (Currently amended) The method of Claim 16, wherein said installing step
comprises the steps of:

loading said software package into the memory of said user's computer system;
running a setup routine, wherein said executable code section performs normal
20 setup functions, including displaying a user license; and
agreeing to terms of said user license.

18. (Original) The method of Claim 16, wherein said evaluating step comprises the
steps of:

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selecting one or more use options from a listing of said use options available, said available options being those objects available free of charge or those previously purchased by said user, said listing being provided by said executable code section accessing said usage authorization information, and wherein one or more of said 5 available objects are retrieved by said executable code section and loaded into memory; and

executing said requested use.

19. (Original) The method of Claim 18, further comprising the step of:

10 purchasing any of said software product in entirety and one or more parts thereof.

20. (Original) The method of Claim 19, wherein said purchasing step comprises the steps of:

15 providing user information;
optionally, selecting usage levels and desired features;
providing payment information;
transmitting a purchase request to a server, said purchase request comprising said payment information and said desired usage information.

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21. (Original) The method of Claim 20, wherein said payment information comprises credit card information and contact information for said prospective purchaser.

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22. (Original) The method of Claim 21, wherein selected information characteristic of said user's computer system is transmitted to said server after said purchase request is received by said server.

5 23. (Original) The method of Claim 22, wherein said selected information includes serial numbers from any of a hard disk drive, a network interface card, and a mother board from said user's computer.

10 24. (Original) The method of Claim 23, wherein said selected information includes an identification code identifying a particular storage medium on which said software package was distributed.

15 25. (Original) The method of Claim 22, wherein said server transmits an access control code to said user's computer after said purchase request is successfully processed, said access control code based on said selected information characteristic of said user's computer, and wherein said access control code is separately stored on said user's computer from said software package.

20 26. (Original) The method of Claim 25, wherein said access control code is a decryption key for said encrypted first object, said decryption key based on said selected information, and wherein both said decryption key and said selected information must be present on said user's computer in order to decrypt said first object.

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27. (Original) The method of Claim 26, wherein said decryption key is split into two parts, a first part of which is calculated on said server, and a second part of which is calculated in real time on said user's computer using said selected information.

5 28. (Original) The method of Claim 25, wherein said access control code is a decryption executable for said encrypted first object, said decryption executable based on said selected information, and wherein both said decryption executable and said selected information must be present on said user's computer in order to decrypt said first software version.

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29. (Original) The method of Claim 11, wherein said access control portion further comprises a signature, said signature being readable by a predetermined executable serving to control access to said first object.

15 30. (Original) The method of Claim 29, wherein said predetermined executable is a driver executable, wherein said driver executable is downloaded from a server by said user; and

wherein said driver executable is installed on said user's computer separately from said software package.

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31. (Original) The method of Claim 30, wherein said notifier comprises means for notifying said prospective user to download said driver executable from said server.

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32. (Original) The method of Claim 31, wherein said driver executable reads said signature and recognizes said software package as one containing data objects, wherein said software package requires access control by said driver executable.

5 33. (Original) The method of Claim 32, wherein said driver executable decrypts said usage authorization information, whereby said usage authorization is presented to said user.

10 34. (Original) The method of Claim 33, wherein said evaluating step further comprises the steps of:

15 selecting one or more use options from a listing of said use options available, said available options being those objects available free of charge or those previously purchased by said user, said listing being provided by said driver executable accessing said usage authorization information, and wherein one or more of said available objects are retrieved by said driver executable and loaded into memory; and

executing said requested use.

35. (Original) The method of Claim 34, further comprising the step of:
purchasing any of:

20 said software product in entirety; and
one or more parts thereof.

36. (Original) The method of Claim 35, wherein said purchasing step comprises the steps of:

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providing user information;
optionally, electing usage levels and desired features;
providing payment information;
transmitting a purchase request to a server, said purchase request comprising
5 said payment information and said desired usage information.

37. (Original) The method of Claim 36, wherein said payment information comprises credit card information and contact information for said prospective purchaser.

10 38. (Previously amended) The method of Claim 37, wherein selected information characteristic of said user's computer system is transmitted to said server after said purchase request.

15 39. (Original) The method of Claim 38, wherein said selected information includes serial numbers from any of a hard disk drive, a network interface card, and a motherboard from said user's computer.

20 40. (Original) The method of Claim 39, wherein said selected information includes an identification code which identifies a particular storage medium on which said software package was distributed.

41. (Original) The method of Claim 38, wherein said server transmits an access control code to said user's computer after said purchase request is successfully processed, said access control code based on said selected information characteristic

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of said user's computer, and wherein said access control code is separately stored on said user's computer from said software package.

42. (Original) The method of Claim 41, wherein said access control code is a decryption key for said encrypted first object, said encryption key based on said selected information, and wherein both said decryption key and said selected information must be present on said user's computer in order to decrypt said first object.

43. (Original) The method of Claim 42 wherein said encryption key is split into two parts, a first part of which is calculated on said server, and a second part of which is calculated in real time on said user's computer using said selected information.

44. (Original) The method of Claim 43, wherein said access control code is a decryption executable for said encrypted first object, said encryption executable based on said selected information, and wherein both said decryption executable and said selected information must be present on said user's computer in order to decrypt said first software version.

45. (Original) The method of Claim 1, wherein said software package includes means for protecting said software package against class attacks and dump attacks.

46. (Original) The method of Claim 45, wherein said protection against dump attacks comprises any of erasing and modifying one or more of said objects' relocation

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information, directory pointers, or entry point after said objects have been written into memory.

47. (Original) The method of Claim 45, wherein said protection against dump attacks 5 comprises modifying references to external routines in an import table of said objects whereby said notifier controls access to said routines.

48. (Original) The method of Claim 25, wherein said server inserts transaction information in said software product as a watermark.

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49. (Original) The method of Claim 41, wherein said server inserts transaction information in said software product as a watermark.

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50. (Original) The method of Claim 25, wherein said server inserts transaction information in said access control code as a watermark.

51. (Original) The method of Claim 41, wherein said server inserts transaction information in said access control code as a watermark.

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